

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

VETO

HOUSE BILL 2188

AN ACT

AMENDING SECTIONS 32-2301, 32-2302 AND 32-2303, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2304, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 99, SECTION 12; AMENDING SECTIONS 32-2306 AND 32-2307, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 32, CHAPTER 22, ARTICLE 2, ARIZONA REVISED STATUTES, TO "REGISTRATION AND LICENSURE"; AMENDING SECTIONS 32-2311, 32-2311.01, 32-2312, 32-2313, 32-2314, 32-2315, 32-2316, 32-2317, 32-2319, 32-2321, 32-2322, 32-2325, 32-2326 AND 32-2328, ARIZONA REVISED STATUTES; REPEALING TITLE 32, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 4; TRANSFERRING AND RENUMBERING SECTIONS 32-2320, 32-2323 AND 32-2324, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 32, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 32-2331, 32-2332 AND 32-2333, RESPECTIVELY; AMENDING SECTIONS 32-2331, 32-2332 AND 32-2333, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; RELATING TO THE STRUCTURAL PEST CONTROL COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2301, Arizona Revised Statutes, is amended to
3 read:

4 32-2301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. ~~"Apprentice" means a registered employee who applies a pesticide~~
7 ~~while acting under the instructions, control and responsibility of a~~
8 ~~certified applicator or qualifying party who is within the direct line of~~
9 ~~sight or within hearing distance of the apprentice and who is available for~~
10 ~~consultation or assistance at the time and place the pesticide is applied.~~

11 1. "ACT" MEANS THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT
12 AS AMENDED BY THE FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1972 (7
13 UNITED STATES CODE SECTION 136).

14 2. "Branch office" means any fixed place of business, other than the
15 primary office, THAT IS REGISTERED WITH THE COMMISSION AND where records are
16 kept, mail is received, statements are rendered, money is collected, requests
17 for service or bids are received or information pertaining to the business
18 of structural pest control is given and from which the use of pesticides and
19 devices is supervised by a certified applicator or qualifying party.

20 3. "Business license" means a license which is issued pursuant to this
21 chapter to a person and which entitles ENTITLING that person and the person's
22 employees to engage in the business of structural pest control.

23 4. "Business of structural pest control" means engaging in, offering
24 to engage in, advertising for, soliciting or performing STRUCTURAL PEST
25 CONTROL, INCLUDING any of the following:

26 (a) Identifying infestations or making inspections for the purpose of
27 identifying or attempting to identify infestations of households or other
28 structures and the surrounding area by any of the following:

29 (i) Public health pests.

30 (ii) Aquatic pests.

31 (iii) Household pests.

32 (iv) Wood-destroying pests or organisms INSECTS.

33 (v) Pests, including weeds, which exist in the area near or EXISTING
34 around structures, in ornamental shrubs and trees, on golf courses or in
35 lawns and cemeteries.

36 (b) Making written or oral inspection reports, recommendations,
37 estimates or bids with respect to infestations.

38 (c) The application of PESTICIDES or the making of contracts or
39 submitting of bids for the application of pesticides or the use of devices
40 for the purpose of eliminating, exterminating, controlling or preventing
41 infestations.

42 5. "Certified applicator" means a person who has been tested by and
43 determined IS LICENSED by the commission to be competent to apply pesticides
44 in accordance with this chapter, INCLUDING RESTRICTED USE PESTICIDES.

1 6. "Commission" means the structural pest control commission
2 ESTABLISHED BY SECTION 32-2302.

3 7. "De minimis violation" means a violation that, although
4 undesirable, has no direct or immediate relationship to safety, health or
5 property damage.

6 8. "Device" means any mechanical, chemical or electrical apparatus
7 used in conjunction with, in place of or to supplement, disperse or dispense
8 pesticides.

9 9. "Direct supervision" means use of a pesticide by a registered
10 employee acting under the instructions, control and responsibility of a
11 certified applicator or qualifying party who is available if needed for
12 consultation or assistance even though the certified applicator or qualifying
13 party is not physically present at the time and place the pesticide is used.

14 10. "Final grade treatment" means establishment of vertical barriers
15 at the exterior of foundation walls in stem wall construction or AT THE
16 exterior of grade beams in monolithic construction.

17 11. "Household pests" means pests, other than wood-destroying pests or
18 organisms INSECTS, which THAT invade households or other structures,
19 including rodents, vermin and insects.

20 ~~12. "Immediate supervision" means use of a pesticide by a registered~~
21 ~~employee or apprentice acting under the instructions, control and~~
22 ~~responsibility of a certified applicator or qualifying party who is within~~
23 ~~the direct line of sight or within hearing distance of the registered~~
24 ~~employee or apprentice and who is available for consultation or assistance~~
25 ~~at the time and place the pesticide is used.~~

26 12. "LICENSE" MEANS AN APPROVAL GRANTED BY THE COMMISSION TO ACT AS A
27 CERTIFIED APPLICATOR OR QUALIFYING PARTY OR TO OPERATE A BUSINESS OF
28 STRUCTURAL PEST CONTROL IN THIS STATE.

29 13. "Other structures" includes railroad cars, boats, docks, motor
30 vehicles or airplanes and their contents.

31 14. "Pesticide" means any substance or mixture of substances intended
32 to be used for defoliating plants or for preventing, destroying, repelling
33 or mitigating insects, fungi, bacteria, weeds, rodents, predatory animals or
34 any form of plant or animal life which THAT is a pest and may infest or be
35 detrimental to vegetation, humans, animals or households or be present in any
36 environment.

37 15. "PRETREATMENT" MEANS THE PRECONSTRUCTION APPLICATION OF
38 TERMITICIDES TO THE SOIL BENEATH THE CONCRETE SLAB BEFORE POURING THE SLAB
39 AND THE ESTABLISHMENT OF VERTICAL BARRIERS AT THE EXTERIOR OF FOUNDATION
40 WALLS IN STEM WALL CONSTRUCTION OR AT THE EXTERIOR OF GRADE BEAMS IN
41 MONOLITHIC CONSTRUCTION.

42 ~~15.~~ 16. "Pretreatment violation" means:

43 (a) Knowingly Entering into a contract for or the performance of any
44 number of preconstruction subterranean termite treatments by performing or

1 intending to perform any number of pretreatments in violation of the label,
2 statute or rule.

3 (b) The issuance of a preconstruction treatment guarantee before full
4 compliance with the commission's standards, ~~but excluding~~ INCLUDING issuance
5 of a preconstruction treatment guarantee before completing a final grade
6 treatment.

7 ~~16.~~ 17. "Prior violation" means any violation for which disciplinary
8 action was taken within a five-year period prior to the date of the act for
9 which current disciplinary action is sought.

10 ~~17.~~ 18. "Qualifying party" means an individual who qualifies ~~a~~
11 ~~business to engage in the business of structural pest control pursuant to~~
12 ~~this chapter~~ IS LICENSED BY THE COMMISSION TO APPLY PESTICIDES AND SUPERVISE
13 THE PEST MANAGEMENT PRACTICES OF ALL EMPLOYEES OF A BUSINESS LICENSEE.

14 ~~18.~~ 19. "Registered employee" means an individual who is trained by
15 a business licensee and registered WITH THE COMMISSION pursuant to this
16 chapter.

17 20. "RESTRICTED USE PESTICIDE" MEANS A PESTICIDE CLASSIFIED AS SUCH BY
18 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

19 ~~19.~~ 21. "Spot treatment" means any treatment which is related to
20 wood-destroying organisms INSECTS and which is restricted to any area of the
21 structure other than the entire structure.

22 ~~20.~~ 22. "Structural pest control" means controlling public health
23 pests, aquatic pests, household pests, wood-destroying pests ~~or organisms~~
24 INSECTS or pests, including weeds, which exist in the area near or around
25 structures, in ornamental shrubs and trees, on golf courses, along
26 rights-of-way or in lawns or cemeteries and all pesticide application which
27 could be harmful to public health or the environment. Structural pest
28 control does not include pesticide applications used directly in the
29 commercial production of crops and animals if such applications are governed
30 by the Arizona department of agriculture pursuant to title 3, chapter 2,
31 articles 6 and 6.1.

32 23. "TERMITICIDE" MEANS PESTICIDES, INCLUDING FUMIGANTS AND OTHER
33 CHEMICALS USED FOR THE TREATMENT, CONTROL OR ERADICATION OF TERMITES.

34 ~~21.~~ 24. "Toxicity category I" means pesticides with the label
35 statement "Danger".

36 ~~22.~~ ~~"Toxicity category II" means pesticides with the label statement~~
37 ~~"Warning".~~

38 ~~23.~~ 25. "Weed" means any plant which ~~grows~~ GROWING where it is not
39 wanted.

40 ~~24.~~ 26. "Wood-destroying pests ~~or organisms~~ INSECTS" means
41 insects, ~~fungi or other organisms~~ that attack, damage or destroy wood or
42 wood-derivative products of ~~households or other structures~~.

43 ~~25.~~ 27. "Wood infestation report" means a written inspection report
44 on a form approved ADOPTED by the commission that is prepared in connection

1 with the sale or refinancing of real property WHETHER OR NOT THE REPORT IS
2 USED AS PART OF THE TRANSACTION.

3 Sec. 2. Section 32-2302, Arizona Revised Statutes, is amended to read:
4 32-2302. Structural pest control commission; appointment;

5 qualification; terms

6 A. The structural pest control commission is established. The
7 commission consists of the following seven members:

8 1. Three industry members who hold current active licenses and who are
9 appointed by the governor pursuant to section 38-211. Each industry member
10 shall have a minimum of five years of structural pest control
11 experience. The governor shall make appointments in a manner to provide that
12 the three industry members in combination have pest control experience in all
13 licensed categories and in a manner to provide urban and rural representation
14 and representation from licensees with a limited number of employees and
15 licensees with a large number of employees. One member shall be an active
16 business licensee who has five or fewer employees.

17 2. Three public members who are appointed by the governor pursuant to
18 section 38-211.

19 3. One member who has at least a baccalaureate degree and is an
20 entomologist, plant pathologist, toxicologist, ~~medical doctor, doctor of~~
21 ~~osteopathy~~ ALLOPATHIC PHYSICIAN, OSTEOPATHIC PHYSICIAN or an individual
22 holding a degree in public health or occupational health and who is appointed
23 by the governor pursuant to section 38-211.

24 B. The members appointed pursuant to subsection A, paragraphs 2 and
25 3 of this section shall not have been employed or affiliated with the pest
26 control or pesticide industry within a ~~two-year~~ FIVE-YEAR period prior to
27 appointment.

28 C. The governor may remove any appointee for cause.

29 D. The term of office for commission members is three years to begin
30 and end on the third Monday in January.

31 E. No appointee may serve more than two consecutive terms.

32 Sec. 3. Section 32-2303, Arizona Revised Statutes, is amended to read:
33 32-2303. Organization; meetings; compensation

34 A. The commission, at its last meeting of each calendar year, shall
35 elect from among its members a ~~chairman, vice-chairman~~ CHAIRPERSON,
36 VICE-CHAIRPERSON and secretary all of whom retain full voting rights.

37 B. The commission shall hold a regular meeting at least
38 quarterly. The commission may hold other meetings it deems necessary.

39 C. A majority of the commission constitutes a quorum.

40 D. All commission meetings and hearings shall be conducted according
41 to parliamentary procedure as outlined in the current Robert's Rules of
42 Order.

43 E. Members of the commission are eligible to receive compensation as
44 determined pursuant to section 38-611 for each commission meeting or day of
45 actual service in the business of the commission.

1 Sec. 4. Section 32-2304, Arizona Revised Statutes, as amended by Laws
2 2002, chapter 99, section 12, is amended to read:

3 32-2304. Powers and duties; executive director

4 A. The commission shall:

5 1. Adopt rules that are necessary or proper for the administration of
6 this chapter, including administrative provisions and health and safety
7 provisions for the use, storage and application of pesticides and devices
8 used in structural pest control.

9 2. Adopt rules governing pretreatment PRECONSTRUCTION TERMITE
10 TREATMENTS.

11 3. Administer and enforce this chapter and rules adopted pursuant to
12 this chapter.

13 4. Maintain a record of its acts and proceedings, including the
14 issuance, refusal, renewal, suspension or revocation of licenses, ~~AND~~
15 registrations, qualifications and certificates.

16 5. At least thirty days before adoption of a rule, form or policy,
17 mail a copy of notice of a proposed rule, form or policy adoption, including
18 the text of the proposed rule, form or policy, to each business licensee who
19 has made a request to the commission, except that if the commission finds
20 that adoption of a rule is necessary for immediate preservation of the public
21 peace, health and safety and that notice is impractical, unnecessary or
22 contrary to public interest it may adopt a rule without prior notice. Within
23 thirty days after the adoption of a statute by the legislature or
24 certification of a rule by the attorney general GOVERNOR'S REGULATORY REVIEW
25 COUNCIL, the commission shall notify all business licensees in writing.

26 6. Hire inspectors as needed, considering recommendations of the
27 executive director.

28 7. On receipt of a complaint or initiation of a complaint by the
29 commission, notify the business licensee and qualifying party in writing of
30 the complaint against the business licensee by the close of business on the
31 second business day after the day on which the commission received or
32 initiated the complaint.

33 8. ~~On the request of any party,~~ Issue subpoenas for the taking of
34 depositions, the production of documents and things and the entry on land for
35 inspection and measuring, surveying, photographing, testing or sampling the
36 property or any designated object or operation on the property relevant to
37 the complaint.

38 9. List any complaint it plans to discuss at a public meeting in the
39 agenda for the meeting.

40 10. Make certified applicator LICENSE and qualifying party LICENSE
41 EXAMINATION study materials available, at the commission's actual costs, to
42 any interested person.

43 11. Conduct or contract to conduct certified applicator LICENSE and
44 qualifying party LICENSE tests at locations throughout this state. If the
45 commission contracts for these tests, the contracts may provide for specific

1 examination fees or a reasonable range of fees determined by the commission
2 to be paid directly to the contractor by the applicant.

3 12. Require a business licensee to provide written notice immediately
4 following a pest control treatment in or around residential structures of one
5 or two units to the person requesting the treatment or to the person's
6 designated agent. The notice shall include the specific chemical by trade
7 name used in the treatment.

8 13. Require a business licensee that performs pest control treatments
9 on an ongoing basis to locations other than residential structures of one or
10 two units to provide written notice in accordance with commission standards
11 to the person who requested the treatments or the person's designated agent.
12 Notice shall be given before the first application of the chemical and
13 whenever new or additional chemicals are to be used or immediately after each
14 treatment. If the treatments are performed in the interior of residential
15 units, the licensee shall leave a similar notice in the interior of each
16 treated unit immediately after each treatment.

17 14. Within thirty days of completion of a pretreatment project, initial
18 termite corrective treatment project or wood infestation report, require the
19 business licensee to file with the commission, in a form approved by the
20 commission, all data required by the commission. The data shall MAY include:

21 (a) The name of the individual who performed the work.

22 (b) The address or location of the work or project.

23 (c) The type and the date of the work.

24 (d) The name of the pest control company.

25 (e) The name of the qualifying party.

26 (f) The certified applicator certificate LICENSE numbers.

27 (g) Any other information that is required by the commission IN THE
28 COMMISSION'S RULES.

29 15. Within one hundred eighty days of completion of an initial
30 pretreatment project, require the business licensee to file a supplemental
31 termite action report in a form provided by the commission indicating the
32 completion of the final grade treatment or to request in writing a waiver
33 that indicates why the treatment has not been completed and when it will be
34 completed.

35 16. Refer all pretreatment cases involving alleged criminal fraud to
36 the criminal fraud division of the attorney general's office and refer any
37 case the commission determines to contain information relating to a possible
38 felony to the proper law enforcement agency.

39 17. Maintain a computer system ~~which records~~ FOR THE BENEFIT AND
40 PROTECTION OF THE PUBLIC THAT MAY INCLUDE the following information on
41 pretreatment projects, initial termite corrective projects, preventative
42 termite treatments and wood infestation reports:

43 (a) The name of the individual who performed the work.

44 (b) The address or location of the work or project.

45 (c) The name of the pest control company.

- 1 (d) The name of the qualifying party.
- 2 (e) The certified applicator certificate LICENSE numbers.
- 3 (f) The nature and date of the work performed.
- 4 (g) Any other information that is required by the commission IN THE
- 5 COMMISSION'S RULES.

6 18. Refer all cases for initial hearing to an administrative law judge.

7 19. Establish an office and branch offices it deems necessary to carry

8 out the purposes of this chapter.

9 20. Employ an executive director and other permanent or temporary

10 personnel it deems necessary to carry out the purposes of this chapter and

11 designate their duties.

12 21. Investigate violations of this chapter and rules adopted pursuant

13 to this chapter.

14 22. Adopt minimum standards for pesticide applications.

15 23. Adopt minimum standards for THE LICENSURE OF certified applicators,

16 QUALIFYING PARTIES AND BUSINESSES.

17 24. Adopt rules regarding continuing education.

18 25. Require a business licensee, qualifying party, certified applicator

19 or registered employee to permit a commission inspector to be present on a

20 jobsite in connection with a contemporaneous pest control treatment for the

21 purpose of taking chemical samples, soil samples or any other samples for

22 purposes of testing DETERMINING the type and quantity of chemicals used.

23 26. Deny a QUALIFYING PARTY license to any person who is subject to a

24 previous revocation of the person's QUALIFYING PARTY license for a period of

25 ten FIVE years from the time of revocation.

26 27. Adopt by rule a nonexclusive list of acts and omissions that

27 constitute de minimis violations.

28 28. ADOPT RULES NECESSARY TO ALLOW THIS STATE TO LICENSE CERTIFIED

29 APPLICATORS IN ACCORDANCE WITH THIS CHAPTER. THE RULES SHALL INCLUDE:

30 (a) A CATEGORIZATION OF AREAS OF PEST CONTROL FOR PURPOSES OF

31 LICENSURE.

32 (b) STANDARDS FOR THE LICENSURE OF CERTIFIED APPLICATORS AND

33 QUALIFYING PARTIES WITHIN THE VARIOUS CATEGORIES.

34 (c) STANDARDS FOR BUSINESS LICENSEES TO SUPERVISE AND TRAIN REGISTERED

35 EMPLOYEES.

36 (d) REQUIREMENTS THAT CERTIFIED APPLICATORS AND QUALIFYING PARTIES

37 MAINTAIN RECORDS AND FILE REPORTS AS DESIGNATED BY THE COMMISSION.

38 29. ADOPT RULES FOR THE LICENSING OF QUALIFYING PARTIES AND STRUCTURAL

39 PEST CONTROL BUSINESSES OPERATING IN THIS STATE.

40 B. The commission may:

41 1. Compel attendance of witnesses, administer oaths or affirmations

42 and take testimony concerning all matters coming within its jurisdiction.

43 2. Require a person who seeks a license, certification or registration

44 pursuant to this chapter to submit to the commission a full set of

45 fingerprints and the fees required by section 41-1750. The commission shall

1 submit the fingerprints and fees to the department of public safety for the
2 purpose of obtaining a state and federal criminal records check pursuant to
3 section 41-1750 and Public Law 92-544. The department of public safety may
4 exchange this fingerprint data with the federal bureau of investigation. THE
5 COMMISSION MAY CHARGE A FEE FOR THE COSTS OF FINGERPRINT PROCESSING.

6 3. Enter into intergovernmental agreements.

7 4. With at least twenty-four hours' notice, request specific records
8 from a business licensee, qualifying party or certified applicator at the
9 person's place of business during normal business hours.

10 5. Adopt rules setting forth procedures for providing notice to
11 business licensees of requests for records and methods of compliance for
12 business licensees. The rules may:

13 (a) Specify that the qualifying party or certified applicator in
14 charge of the office is responsible for complying with record requests by the
15 commission.

16 (b) Provide that a failure to timely comply with a records request may
17 be excused on a showing of good cause by the business licensee.

18 6. Charge to the holder of a business license the actual cost of
19 providing mailed copies of rules, forms or policies that are proposed for
20 adoption.

21 7. Require a business licensee that undergoes a change of name or
22 ownership status or that sells all or a part of the business to:

23 (a) Report to the commission within ten business days the status of
24 all warranties that are issued by the licensee.

25 (b) Notify within ten business days all persons who hold warranties
26 that are issued by the licensee regarding the change.

27 8. Hire independent contractors to conduct inspections and take
28 chemical samples, soil samples or any other samples for purposes of testing
29 the type and quantity of chemicals that are used in connection with pest
30 control treatment.

31 9. Issue advisory notices for de minimis violations.

32 ~~10. Notify a business licensee, qualifying party or certified~~
33 ~~applicator of all requests for review of the business licensee's, qualifying~~
34 ~~party's or certified applicator's records within ten business days of the~~
35 ~~request.~~

36 ~~11. 10. Maintain a ratio of at least one inspector to every two~~
37 ~~hundred industry members, including qualifying parties and registered~~
38 ~~employees, and the commission shall maintain a ratio of at least one~~
39 ~~inspection supervisor for every eight inspectors. REQUIRE inspectors shall~~
40 ~~TO be certified LICENSED pursuant to article 4-2 of this chapter in all~~
41 ~~CERTIFICATION categories, AS ESTABLISHED BY THE COMMISSION IN THE~~
42 ~~COMMISSION'S RULES, within their scope of work within DURING their~~
43 ~~probationary period. Inspectors shall attend and complete an investigative~~
44 ~~training class that is prescribed by the commission within their probationary~~
45 ~~period.~~

1 11. INVESTIGATE ALLEGED VIOLATIONS OF THE ACT OR OF THIS CHAPTER OR OF
2 ANY RULES AND REGULATIONS PROMULGATED BY THE ENVIRONMENTAL PROTECTION AGENCY
3 PURSUANT TO THE ACT, OF ANY RULE ADOPTED OR ORDER ISSUED BY THE COMMISSION
4 OR OF ANY CONDITION IMPOSED BY THE COMMISSION IN CONNECTION WITH A LICENSE
5 OR REGISTRATION.

6 12. CONDUCT HEARINGS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF WITNESSES
7 AND FOR THE PRODUCTION OF BOOKS, RECORDS, DOCUMENTS AND OTHER EVIDENCE,
8 ADMINISTER OATHS AND TAKE ACTION AS IT DEEMS NECESSARY TO EFFECTIVELY
9 ADMINISTER THIS ARTICLE.

10 C. Each completed form for a pretreatment project, initial termite
11 corrective treatment project or wood infestation report shall be accompanied
12 by a fee. The initial fee is eight dollars. The commission may adjust the
13 fee upward or downward to a level that is calculated to produce sufficient
14 revenue to carry out the functions prescribed under this section. THE
15 COMMISSION MAY ESTABLISH TIERED FEES ACCORDING TO THE MEANS OF SUBMISSION TO
16 ENCOURAGE ELECTRONIC SUBMISSION OF THE TERMITE ACTION REGISTRATION FORM. The
17 commission may assess a penalty of not to exceed one hundred dollars per form
18 for failing to submit the required form and OR fee, OR BOTH, within thirty
19 days.

20 D. The executive director shall serve at the pleasure of the
21 commission. Compensation for the executive director and employees shall be
22 determined pursuant to section 38-611.

23 E. Subject to the limitations of section 41-2544, the executive
24 director may enter into agreements for the purpose of enabling the commission
25 to accept payment for fees imposed under this chapter by alternative payment
26 methods, including credit cards, charge cards, debit cards and electronic
27 funds transfers. Before the monies are transferred to the executive director
28 pursuant to section 32-2305, the person collecting the fees shall deduct any
29 amount charged or withheld by a company providing the alternative payment
30 method under an agreement with the commission.

31 F. In the enforcement of this article, the commission or any of its
32 duly authorized agents may enter with the authority of a warrant issued by
33 a court of competent jurisdiction at reasonable times on any private or
34 public property on which pesticides are located or are reasonably believed
35 to be located to be used for purposes related to structural pest
36 control. The owner, managing agent or occupant of the property shall permit
37 entry for the purpose of inspecting and investigating conditions relating to
38 the use, storage, application and disposal of pesticides.

39 G. The commission shall not delegate to its staff the powers and
40 duties listed under:

41 1. Subsection A, paragraphs 1, 2, 3, 15, ~~17~~, 19, ~~21~~, 22, 23, ~~25~~ and
42 26, 28 AND 29 of this section.

43 2. Subsection B, ~~paragraphs 3~~, PARAGRAPH 5 and ~~8~~ of this section.

1 Sec. 5. Section 32-2306, Arizona Revised Statutes, is amended to read:
2 32-2306. Semiannual and informational reports

3 A. The commission shall semiannually submit a report regarding the
4 number and types of termite treatments as reported on termite action reports
5 pursuant to section 32-2304, subsection A and section ~~32-2323~~ 32-2332,
6 subsection C. The information shall be categorized according to the general
7 type of treatment used, including chemical, bait, mechanical, temperature and
8 other methods of treatment. If chemical treatment is used the report shall
9 include the active ingredient or trade name of the chemical used.

10 B. The commission shall submit the report to the speaker of the house
11 of representatives, the president of the senate, ~~AND~~ the governor and SHALL
12 provide a copy of the report to the secretary of state and the director of
13 the Arizona state library, archives and public records. The commission shall
14 submit the first report by April 30, 2002 for the period July 1, 2001 through
15 December 31, 2001.

16 C. If a buyer of real property makes a request to the commission, the
17 commission shall make available to the buyer an information report listing
18 all termite treatments reported to the commission for the property for the
19 previous three years. The wood infestation report as defined in section
20 ~~23-2301~~ 32-2301 shall state that a buyer may obtain the information report
21 from the commission.

22 Sec. 6. Section 32-2307, Arizona Revised Statutes, is amended to read:
23 32-2307. Certified applicator required; notification of
24 pesticide applications to public schools;
25 exemptions; definition

26 A. The commission shall require a business licensee or certified
27 applicator to notify a school at least seventy-two hours in advance of any
28 pesticide application in order to permit the school to comply with section
29 15-152. The seventy-two hour advance notice shall include the date and time
30 THE application is to occur. The seventy-two hour advance notice shall also
31 include the brand name, concentration, rate of application, pesticide label,
32 ~~AND~~ material safety data sheet and any use restrictions required by the
33 pesticide label. ONLY AN INDIVIDUAL HOLDING A CERTIFIED APPLICATOR OR
34 QUALIFYING PARTY LICENSE MAY PERFORM PEST CONTROL AT SCHOOLS.

35 B. The commission shall also require that immediately prior to
36 application of a pesticide a business licensee or certified applicator shall
37 provide the school with a written preapplication notification containing the
38 following information:

- 39 1. The brand name, concentration, ~~AND~~ rate of application and any use
40 restrictions required by the label of the herbicide or specific pesticide.
41 2. The area or areas where the pesticide is to be applied.
42 3. The date and time the application is to occur.
43 4. The pesticide label and the material safety data sheet.

44 C. The pesticide label and material safety data sheet may be used in
45 place of the information required pursuant to subsections A and B of this

1 section if all of the information required by those subsections is already
2 contained on the label or material safety data sheet.

3 D. The following pesticide applications are exempt from the
4 notification requirement prescribed in subsections A and B of this section:

5 1. Nonresidual pesticide applications performed or contracted by
6 public health agencies for adult vector control, provided that oral
7 notification is attempted, when possible, to the school office with a
8 statement of the pest problem, treatment procedure, area to be treated and
9 approximate time of the application.

10 2. Emergency pesticide applications to control harmful pests that pose
11 an immediate threat to the public health. Under these circumstances the
12 business licensee OR CERTIFIED APPLICATOR shall do all of the following:

13 (a) Notify the school office before the application with a statement
14 of the pest problem, treatment procedure, area to be treated and approximate
15 time of application.

16 (b) Immediately after the application has been completed, notify the
17 school office of the name of the pesticide applied, the formulation, the
18 strength and dosage, AND the date and time of application and provide the
19 pesticide label.

20 (c) Post the treated area immediately after the application. The
21 posting shall include the name of the pesticide, the date and time of
22 application and the name and telephone number of the business licensee AND
23 CERTIFIED APPLICATOR.

24 E. The provisions of this chapter shall regulate and determine all
25 requirements regarding certification, licenses, fees, testing, education,
26 and all other requirements regarding the business of pest control for persons
27 licensed, registered or certified pursuant to the provisions of this chapter.

28 F. For purposes of this section:

29 1. "Pesticides" does not include nonrestricted use disinfectants,
30 sanitizers or deodorizers regulated by the federal insecticide, fungicide,
31 and rodenticide act but includes other pesticides regulated under the federal
32 insecticide, fungicide, and rodenticide act.

33 2. "Schools" means a public AN education institution that provides
34 instruction in pre-kindergarten programs, kindergarten programs or any of
35 grades one through twelve.

36 Sec. 7. Heading change

37 The article heading of title 32, chapter 22, article 2, Arizona Revised
38 Statutes, is changed from "CERTIFICATION, REGISTRATION AND LICENSURE" to
39 "REGISTRATION AND LICENSURE"

40 Sec. 8. Section 32-2311, Arizona Revised Statutes, is amended to read:

41 32-2311. Persons not required to be licensed

42 This article and articles 1 and 3 of this chapter do not apply to:

43 1. Persons licensed or certified pursuant to title 3, chapter 2,
44 article 6.

1 2. Persons applying pesticides on property that they own, lease or
2 rent unless the property is a commercial or institutional food handling
3 establishment.

4 3. Persons applying pesticides on property which they own, lease or
5 rent and which is used as a commercial or institutional food handling
6 establishment if all of the following conditions are met:

7 (a) A pest control company or a certified applicator licensed or
8 certified by the commission applies pesticides at the establishment and the
9 application of pesticides or other devices by the owner, lessee or tenant is
10 supplemental to the applications or use of devices made by the pest control
11 company or certified applicator.

12 (b) The storage and application of pesticides at the establishment by
13 the owner, lessee or tenant are done in accordance with rules of and approved
14 by the county or local health department.

15 (c) The application of pesticides or other devices is performed by an
16 owner, lessee or tenant or the designee of an owner, lessee or tenant who has
17 completed a county health department food handlers course which includes
18 training on the use of nonrestricted pesticides or other devices or is
19 performed by an owner, lessee or tenant or the designee of an owner, lessee
20 or tenant under the direct supervision of a pest control company,
21 certified applicator or qualifying party.

22 4. Authorized representatives of any educational institution engaged
23 in research in the study of pest control or a state agency engaged in
24 research or the study of pest control.

25 5. A person who functions as a gardener by performing lawn, garden,
26 shrub and tree maintenance AND WHO APPLIES NONRESTRICTED READY-TO-USE WITHOUT
27 DILUTION PESTICIDES FROM CONTAINERS WITH A CAPACITY OF FIVE GALLONS OR LESS.

28 ~~6. An employee of a city or town who applies pesticides only as~~
29 ~~incidental to the employee's work and who uses pesticides other than those~~
30 ~~in toxicity category I.~~

31 ~~7.~~ 6. Persons or employees of persons with janitorial or cleaning
32 service companies and employees of persons who contract to manage properties
33 who apply nonrestricted use disinfectants, sanitizers or deodorizers
34 regulated by the federal insecticide, fungicide, and rodenticide act (61
35 Stat. 163; 7 United States Code sections 136 through 136y). This exemption
36 does not apply to any other pesticides regulated under the federal
37 insecticide, fungicide, and rodenticide act.

38 ~~8.~~ 7. Employees of political subdivisions or their designated agents
39 while performing emergency response or rescue services.

1 Sec. 9. Section 32-2311.01, Arizona Revised Statutes, is amended to
2 read:

3 32-2311.01. Persons required to hold a certified applicator
4 license but not a qualifying party or business
5 license

6 A. Employees of persons who contract to manage properties and who in
7 the course of their employment apply pesticides to a property other than a
8 commercial or institutional food handling establishment or a golf course are
9 required to be ~~certified but not licensed~~ HOLD A CERTIFIED APPLICATOR LICENSE
10 BUT NOT A QUALIFYING PARTY OR BUSINESS LICENSE if all of the following
11 conditions are met:

12 1. The pesticide used is nonrestricted ready-to-use without dilution
13 and not in toxicity category I.

14 2. The employee is certified LICENSED pursuant to section 32-2312
15 prior to using any pesticide on the property.

16 3. The application of pesticides is incidental to the employee's work.

17 B. AN EMPLOYEE OF A CITY OR TOWN WHO APPLIES PESTICIDES ONLY AS
18 INCIDENTAL TO THE EMPLOYEE'S WORK AND WHO USES PESTICIDES OTHER THAN THOSE
19 IN TOXICITY CATEGORY I ARE REQUIRED TO HOLD A CERTIFIED APPLICATOR LICENSE
20 BUT NOT A QUALIFYING PARTY OR BUSINESS LICENSE.

21 Sec. 10. Section 32-2312, Arizona Revised Statutes, is amended to
22 read:

23 32-2312. Applicator license; application; categories; renewal;
24 inactive licenses

25 A. An application for a certified applicator certificate LICENSE shall
26 be in a form prescribed AS ESTABLISHED by the commission IN ITS RULES and
27 accompanied by the prescribed fee. The application shall set forth whether
28 the applicant has ever been convicted of a felony and, if so, the nature of
29 the felony, when and where it was committed and the disposition of the
30 conviction. The commission may deny or revoke a certificate LICENSE based
31 on the information on the application or information that the commission
32 discovers during a background investigation.

33 B. An applicant may apply for a certificate LICENSE in any one or a
34 combination of the following certificate categories ESTABLISHED BY THE
35 COMMISSION IN ITS RULES. :-

36 ~~1. General pest control, excluding control of wood-destroying insects~~
37 ~~or organisms, weed control and fumigation.~~

38 ~~2. Control of wood-destroying pests or organisms.~~

39 ~~3. Weed control.~~

40 ~~4. Fumigation.~~

41 ~~5. Turf and ornamental horticulture pest control.~~

42 ~~6. Rights-of-way.~~

43 ~~7. Public health.~~

44 ~~8. Other categories or subcategories based on practice in the industry~~
45 ~~and established by the commission in its rules.~~

1 C. After a hearing the commission may refuse to renew a certified
2 applicator certificate LICENSE if the commission finds that since the
3 issuance of the certificate LICENSE or the last renewal of the certificate
4 LICENSE the certified applicator has violated any statute governing
5 application of pesticides or any rule or written order of the commission and
6 the nature or time of the violation of the statute, rule or written order
7 shows an inability to safely and lawfully engage in the business of
8 structural pest control.

9 D. Each certified applicator shall annually renew his certificate
10 LICENSE by submitting a form prescribed by the commission AS ESTABLISHED BY
11 THE COMMISSION IN ITS RULES, PAYING THE PRESCRIBED FEE and furnishing proof
12 satisfactory to the commission of completion of at least six hours of
13 continuing education within the preceding year with a minimum of one hour for
14 each category. ~~or subcategory or~~ Successful completion of the applicator
15 certification LICENSE examination FOR EACH CATEGORY MAY BE SUBSTITUTED FOR
16 THE CONTINUING EDUCATION REQUIREMENT. ON FAILURE TO RENEW if a certified
17 applicator fails to renew his certificate LICENSE as required by this
18 subsection, the commission may require payment of a late renewal penalty fee
19 and either completion of the continuing education requirement or successful
20 completion of the applicator certification LICENSE examination. The
21 commission shall suspend a certified applicator's certification LICENSE if
22 the certified applicator fails to renew the certification LICENSE within
23 thirty days of the renewal date.

24 E. A certified applicator may apply to the commission for inactive
25 certification LICENSE status ~~if the certified applicator is not currently in~~
26 ~~the business of structural pest control.~~ To reactivate an inactive
27 certificate LICENSE that has been inactive for one year or less, a certified
28 applicator shall apply to the commission. To reactivate an inactive
29 certificate LICENSE that has been inactive for more than one year, a
30 certified applicator shall apply to the commission and shall either
31 successfully complete the applicator certification LICENSE examination or,
32 within twelve months preceding application for reactivation, complete six
33 hours of continuing education that has been approved by the commission.

34 Sec. 11. Section 32-2313, Arizona Revised Statutes, is amended to
35 read:

36 32-2313. Business license; business name; branch office
37 registration; renewal; financial security;
38 definition

39 A. A person who wishes to engage in the business of structural pest
40 control shall first obtain a business license from the commission as provided
41 in this article. A person, who PARTNERSHIP OR CORPORATION THAT is not exempt
42 under this article and who THAT advertises for, solicits or holds himself out
43 as willing OFFERS to engage in the business of structural pest control is
44 presumed to be in the business of structural pest control.

45 B. An application for a business license shall:

1 1. Be in a form prescribed AS ESTABLISHED by the commission IN ITS
2 RULES.

3 2. Be accompanied by the prescribed fee.

4 3. Include the name and address of the qualifying party and written
5 documentation of how the qualifying party will be active in the day-to-day
6 management of the business licensee.

7 4. List all owners with more than a ten per cent ownership interest
8 in the company, all corporate officers and members of the board of directors.

9 C. A business licensee shall register each primary and branch office
10 with the commission before it opens for business.

11 D. An applicant shall furnish the following to the commission:

12 1. Proof of financial responsibility consisting of either a deposit
13 of money, liability insurance, a surety bond or a certified check protecting
14 persons who may suffer legal damages as a result of the operations of the
15 applicant. The commission shall not accept a bond or liability insurance
16 except from companies authorized LICENSED TO DO BUSINESS IN THIS STATE AND
17 POSSESSING A CERTIFICATE OF AUTHORITY FROM THE DIRECTOR OF THE DEPARTMENT OF
18 INSURANCE ~~to do business in this state~~. The amount of the deposit, insurance
19 or bonds shall be at least ~~one~~ THREE hundred thousand dollars for property
20 damage and public liability insurance, each separately, and shall be
21 maintained at not less than that amount at all times during the licensing
22 period. The license of a business licensee who permits the security of
23 either property damage or public liability insurance to fall below the sum
24 of ~~one~~ THREE hundred thousand dollars may be suspended by the commission and
25 may remain suspended until the security meets the minimum financial
26 requirement. The property damage and public liability insurance need only
27 cover those particular operations in which the licensee is engaged at any
28 time. If the financial security is in the form of liability insurance or a
29 surety bond, the insurer or surety shall provide a certificate of coverage
30 which indicates the coverages and endorsements required by this subsection.

31 2. Either of the following if the registered office performs termite
32 treatments:

33 (a) Proof of a surety bond in the amount of fifty AT LEAST ONE HUNDRED
34 thousand dollars for each registered office ~~to a maximum of one hundred~~
35 ~~thousand dollars per company~~ for actual damages including reasonable costs
36 of collection suffered by persons as a result of termite WOOD-DESTROYING
37 INSECT damage due to negligent treatment.

38 (b) Proof of a liability insurance policy rider in the amount of fifty
39 AT LEAST ONE HUNDRED thousand dollars for each registered office ~~to a maximum~~
40 ~~of one hundred thousand dollars per company~~ which covers termite
41 WOOD-DESTROYING INSECT damage due to negligent treatment.

42 3. If the registered office provides ~~wood-destroying organism~~ WOOD
43 INFESTATION reports, proof of a surety bond or a liability insurance policy
44 rider in the amount of fifty AT LEAST ONE HUNDRED thousand dollars for each
45 registered office ~~to a maximum of one hundred thousand dollars per company~~

for actual damages plus reasonable costs of collection suffered by persons as a result of errors and omissions contained in the reports.

4. If an insurance policy provides for a deductible, the deductible amount shall be limited to ten thousand dollars for each occurrence. If the deductible amount is in excess of ten thousand dollars for each occurrence, the business licensee shall provide other security as provided in this subsection or other evidence of financial security for the excess deductible amount.

5. If the financial security is in the form of liability insurance, a licensee shall maintain the following A coverage endorsement for PESTICIDES AND HERBICIDES, FUMIGATION, CARE, CUSTODY AND CONTROL, RIGHTS-OF-WAY AND WOOD INFESTATION REPORT ERRORS AND OMISSIONS FOR its applicable licenses. LICENSE CATEGORIES:-

<u>License</u>	<u>Endorsement</u>
(a) General pest control, excluding control of wood-destroying insects or organisms, preconstruction pest control, weed control, fumigation, turf and ornamental horticulture pest control and golf course pest control	Pesticide and herbicide endorsement.
(b) Control of wood-destroying pests or organisms	Pesticide and herbicide pests endorsement.
(c) Weed control	Pesticide and herbicide endorsement.
(d) Fumigation	Pesticide and herbicide endorsement; fumigation endorsement; care custody and control endorsement.
(e) Turf and ornamental horticulture pest control	Pesticide and herbicide endorsement.
(f) Preconstruction pest control	Pesticide and herbicide endorsement
(g) Golf course pest control	Pesticide and herbicide endorsement.
(h) Rights-of-way	Pesticide and herbicide endorsement.
(i) Public health	Pesticide and herbicide endorsement.
(j) Provision of wood infestation reports	Wood infestation report errors and omissions coverage.

E. A business licensee shall maintain a surety bond or liability insurance policy rider as provided in subsection D, paragraphs 2 and 3 for

1 ~~at least two years after the business licensee stops practicing in the~~
2 ~~category of control of wood-destroying pests or organisms.~~

3 ~~F. E. IF THE FINANCIAL SECURITY IS IN THE FORM OF LIABILITY~~
4 ~~INSURANCE, the business license is automatically suspended until a current~~
5 ~~certificate of insurance or proof of financial responsibility is furnished~~
6 ~~to the commission.~~

7 ~~G. F. The commission may refuse to issue a business license in a name~~
8 ~~that is NOT REGISTERED WITH THE SECRETARY OF STATE OR FILED WITH THE ARIZONA~~
9 ~~CORPORATION COMMISSION OR IS any of the following:~~

10 ~~1. The same as or unreasonably similar to one used by another business~~
11 ~~licensee.~~

12 ~~2. A fictitious name that has not been registered with the secretary~~
13 ~~of state or filed with the Arizona corporation commission.~~

14 ~~3. 2. Likely to be confused with any governmental agency or trade~~
15 ~~association.~~

16 ~~4. 3. Likely to be misleading or to imply any distorted~~
17 ~~representation about the business.~~

18 ~~5. 4. Likely to be confused with any business licensee whose license~~
19 ~~has been suspended or revoked.~~

20 ~~H. G. A business licensee shall notify the commission in writing~~
21 ~~within ten days after the termination of employment of a qualifying party or~~
22 ~~a certified applicator.~~

23 ~~I. H. Each business licensee shall annually renew the business~~
24 ~~license and each office registration on or before January 1 by filing renewal~~
25 ~~forms prescribed by the commission, AS ESTABLISHED BY THE COMMISSION IN ITS~~
26 ~~RULES AND BY paying the prescribed renewal fees. and furnishing proof~~
27 ~~satisfactory to the commission that the qualifying party has completed at~~
28 ~~least six hours of continuing education within the preceding year or has~~
29 ~~successfully completed the qualifying party examination. Qualifying parties~~
30 ~~who are certified applicators are exempt from reporting additional continuing~~
31 ~~education requirements if they have renewed their application certificate~~
32 ~~within the preceding year. If a business licensee fails to renew the~~
33 ~~business license and office registrations as required by this subsection, the~~
34 ~~commission may require payment of a late renewal penalty fee and completion~~
35 ~~of the continuing education requirement or successful completion of the~~
36 ~~qualifying party examination. If a business licensee fails to renew the~~
37 ~~business license and office registrations as required by this subsection, the~~
38 ~~licensee shall not engage in the business of structural pest control.~~

39 ~~J. I. After a hearing the commission may refuse to renew a business~~
40 ~~license if the commission finds that since the issuance of the license or the~~
41 ~~last renewal of the license the business licensee or the qualifying party has~~
42 ~~violated a pesticide statute of this state or any rule or written order of~~
43 ~~the commission and the nature or time of the violation of the statute, rule~~
44 ~~or written order shows an inability to safely and lawfully engage in the~~
45 ~~business of structural pest control.~~

1 ~~K. J.~~ Each branch office of a business licensee shall be supervised
2 by a certified applicator or qualifying party ~~who is certified or qualified~~
3 LICENSED in all categories in which the branch office operates.

4 K. A BUSINESS LICENSEE SHALL TRAIN ALL EMPLOYEES WHO APPLY PESTICIDES
5 ACCORDING TO THE STANDARDS ESTABLISHED BY THE COMMISSION IN ITS RULES.

6 L. A BUSINESS LICENSEE SHALL NOTIFY THE COMMISSION IN WRITING WITHIN
7 TEN DAYS AFTER TERMINATION OF EMPLOYMENT OF A REGISTERED EMPLOYEE.

8 ~~L.~~ M. For purposes of this section, "financial security" means
9 liability insurance, a deposit of cash or certified monies, a surety bond or
10 other equivalent item.

11 Sec. 12. Section 32-2314, Arizona Revised Statutes, is amended to
12 read:

13 32-2314. Qualifying party; qualifications; examination;
14 inactive status; temporary qualification; license
15 renewal

16 A. An application for ~~qualification as a~~ qualifying party LICENSE
17 shall be ~~in a~~ form AS prescribed by the commission IN ITS RULES and
18 accompanied by the prescribed fee. The application shall set forth whether
19 the applicant has ever been convicted of a felony and, if so, the nature of
20 the felony, when and where it was committed and the disposition of the
21 conviction. The commission may deny or revoke a ~~qualification~~ QUALIFYING
22 PARTY LICENSE based on the information on the application or information that
23 the commission discovers during a background investigation.

24 B. A qualifying party may apply for ~~qualification A~~ LICENSE in any one
25 or a combination of the following categories ESTABLISHED BY THE COMMISSION
26 IN ITS RULES. ~~:-~~

27 ~~1. General pest control, excluding control of wood-destroying insects~~
28 ~~or organisms, preconstruction pest control, weed control, fumigation, turf~~
29 ~~and ornamental horticulture pest control and golf course pest control.~~

30 ~~2. Control of wood-destroying pests or organisms.~~

31 ~~3. Weed control.~~

32 ~~4. Fumigation.~~

33 ~~5. Turf and ornamental horticulture pest control.~~

34 ~~6. Other categories or subcategories based on practice in the industry~~
35 ~~and established by the commission in its rules.~~

36 ~~7. Preconstruction pest control. All persons who hold qualification~~
37 ~~in this category must be qualified in the category listed in paragraph 2 of~~
38 ~~this subsection.~~

39 ~~8. Golf course pest control.~~

40 C. A qualifying party shall:

41 1. Pass a written examination, given under the direction of the
42 commission, with a score of seventy-five per cent or more.

43 2. Have had within eight years immediately preceding application
44 either:

1 (a) Two years' practical experience, AS ESTABLISHED BY THE COMMISSION
2 IN ITS RULES, in the specific category or categories for which the person is
3 applying.

4 (b) One year's practical experience, AS ESTABLISHED BY THE COMMISSION
5 IN ITS RULES, in the specific category or categories for which the person is
6 applying and have successfully completed at least twelve semester hours or
7 its equivalent in entomology, the eradication or control of weeds, general
8 horticulture, plant pathology or any combination of these subjects directly
9 related to the specific EACH category or categories for which the person is
10 applying.

11 3. Be of good moral character.

12 D. The examination shall test the qualifying party's knowledge of
13 pests and the use, storage and application of pesticides and other devices
14 used in the eradication of pests within the category for which the person is
15 applying.

16 E. A qualifying party shall present evidence satisfactory to the
17 commission that the person has sufficient education or experience to use or
18 supervise the use of a pesticide covered by the category for which the person
19 is applying.

20 F. A qualifying party ~~may apply to the commission for~~ SHALL HAVE AN
21 inactive qualifying party LICENSE status if the qualifying party is not
22 currently acting as a qualifying party for a business licensee. To
23 reactivate an inactive qualification LICENSE that has been inactive for one
24 year or less, a qualifying party shall apply to the commission TO QUALIFY A
25 BUSINESS LICENSE. To reactivate an inactive qualification that has been
26 inactive for more than one year, a qualifying party shall apply to the
27 commission TO QUALIFY A BUSINESS LICENSE and shall either successfully
28 complete the qualification LICENSE examination or, within twelve months
29 preceding application for reactivation, complete six hours of continuing
30 education that has been approved by the commission.

31 G. On application the commission may issue a renewable and revocable
32 temporary qualifying party qualification LICENSE to a certified applicator
33 who is a representative of a business licensee if the qualifying party
34 becomes disassociated with the business licensee. A temporary qualifying
35 party qualification LICENSE is valid for sixty days and may be renewed only
36 on approval of the commission if good cause is established for delay in the
37 procurement of qualification A QUALIFYING PARTY LICENSE. Under the temporary
38 qualifying party qualification a business licensee shall otherwise fully
39 comply with the requirements of this chapter and rules adopted pursuant to
40 this chapter.

41 H. A person acting as a qualified QUALIFYING party shall:

42 1. Be active in the management of the business licensee.

43 2. During normal business hours, be readily available to certified
44 applicators and trainees EMPLOYEES of the business licensee.

1 I. A QUALIFYING PARTY SHALL RENEW A QUALIFYING PARTY LICENSE ANNUALLY
2 AS ESTABLISHED BY THE COMMISSION IN ITS RULES. A QUALIFYING PARTY SHALL PAY
3 A FEE AS DETERMINED BY THE COMMISSION AND SHALL FURNISH TO THE COMMISSION
4 PROOF OF COMPLETION OF AT LEAST SIX HOURS OF CONTINUING EDUCATION WITHIN THE
5 PRECEDING YEAR WITH AT LEAST ONE HOUR FOR EACH CATEGORY. SUCCESSFUL
6 COMPLETION OF THE QUALIFYING PARTY LICENSE EXAMINATION FOR EACH CATEGORY MAY
7 BE SUBSTITUTED FOR THE CONTINUING EDUCATION REQUIREMENT. QUALIFYING PARTIES
8 WHO ARE CERTIFIED APPLICATORS ARE EXEMPT FROM REPORTING ADDITIONAL CONTINUING
9 EDUCATION IF THE QUALIFYING PARTIES RENEWED THEIR CERTIFIED APPLICATOR
10 LICENSE DURING THE SAME CALENDAR YEAR.

11 J. IF A QUALIFYING PARTY FAILS TO RENEW A LICENSE PURSUANT TO
12 SUBSECTION I, THE COMMISSION MAY REQUIRE PAYMENT OF A LATE RENEWAL PENALTY
13 FEE AND EITHER COMPLETION OF THE CONTINUING EDUCATION REQUIREMENT OR
14 SUCCESSFUL COMPLETION OF THE QUALIFYING PARTY LICENSE EXAMINATION. THE
15 COMMISSION SHALL SUSPEND A QUALIFYING PARTY LICENSE IF THE QUALIFYING PARTY
16 FAILS TO RENEW THE LICENSE WITHIN THIRTY DAYS OF THE RENEWAL DATE.

17 Sec. 13. Section 32-2315, Arizona Revised Statutes, is amended to
18 read:

19 32-2315. Registered employees; training; revocation

20 A. WITHIN TEN BUSINESS DAYS AFTER AN EMPLOYEE BEGINS WORK FOR A
21 BUSINESS LICENSEE, THE BUSINESS LICENSEE SHALL REGISTER WITH THE COMMISSION
22 each employee of a THE business licensee who applies pesticides, makes
23 proposals, advertises, solicits or holds himself out as willing to engage
24 himself in the business of structural pest control shall register with the
25 commission within ten business days after beginning work for the business
26 licensee. Employees other than apprentices who apply pesticides shall be
27 certified LICENSED pursuant to section 32-2312 in all categories applicable
28 to the employee's duties within ninety days of employment. Within ten days
29 after beginning employment and before engaging in direct pest control work
30 APPLYING PESTICIDES, each employee who is not certified LICENSED shall be
31 trained by the business licensee in accordance with standards adopted by the
32 commission. The employee shall be certified in all categories pertaining to
33 subsequent or future duties within thirty working days after undertaking
34 these duties. Before the employee becomes certified LICENSED in the
35 employee's respective applicable categories, the employee shall work under
36 the direct supervision of a qualifying party or certified applicator. An
37 employee who is an apprentice and who applies pesticides shall work under the
38 immediate supervision of a qualifying party or a certified applicator at all
39 times.

40 B. An application for employee registration shall be in a form
41 prescribed ESTABLISHED by the commission IN ITS RULES and SHALL BE
42 accompanied by the prescribed fee. The application shall set forth whether
43 the applicant has ever been convicted of a felony and, if so, the nature of
44 the felony, when and where it was committed and the disposition of the
45 conviction. The commission may deny employee registration based on

1 information on the application or information that the commission discovers
2 during a background investigation.

3 C. A business licensee shall train its REGISTERED employees who apply
4 pesticides in accordance with commission specified standards.

5 D. The commission may revoke the registration of a registered employee
6 if the employee violates any provision of this chapter or a rule adopted
7 pursuant to this chapter or for acts committed by the employee while the
8 employee was employed by another employer BUSINESS LICENSEE.

9 ~~E. A business licensee shall notify the commission in writing within~~
10 ~~ten days after the termination of employment of a registered employee.~~

11 Sec. 14. Section 32-2316, Arizona Revised Statutes, is amended to
12 read:

13 32-2316. Identification cards

14 A. The commission shall issue an identification card to each
15 qualifying party, certified applicator and registered employee of a business
16 licensee. Identification cards may include a photograph that identifies the
17 cardholder.

18 B. Each qualifying party, certified applicator and registered employee
19 shall have a valid identification card issued by the commission in the
20 person's possession at all times while on the job.

21 C. A BUSINESS SHALL RETURN TO THE COMMISSION identification cards
22 issued to registered employees ~~are invalid after~~ WITHIN TEN DAYS OF
23 employment terminates TERMINATION.

24 Sec. 15. Section 32-2317, Arizona Revised Statutes, is amended to
25 read:

26 32-2317. Fees

27 A. The commission shall establish and collect AND MAY ADJUST fees that
28 may include service charges allowed pursuant to section 32-2304 for persons
29 who pay with alternative payment methods, including credit cards, charge
30 cards, debit cards and electronic transfers, but that may not exceed the
31 following amounts:

32 1. Qualifying party LICENSE examination and initial qualifying party
33 qualification LICENSE fee, one hundred fifty dollars.

34 2. Qualifying party qualification LICENSE renewal fee, one hundred
35 fifty dollars.

36 3. Qualifying party qualification LICENSE RENEWAL FEE, inactive
37 status, twenty-five dollars.

38 4. Temporary qualifying party qualification LICENSE, twenty-five
39 dollars.

40 5. Initial business license fee, one hundred dollars.

41 6. Business license renewal fee, one hundred dollars.

42 7. Initial branch office registration LICENSE fee, fifty dollars.

43 8. Branch office registration LICENSE renewal fee, fifty dollars.

44 9. Initial employee registration LICENSE fee, five dollars.

45 10. Late renewal penalty fee, double the prescribed renewal fee.

1 11. Qualifying party LICENSE status change, inactive to active, one
2 hundred twenty-five dollars.

3 12. Qualifying party LICENSE examination retake, for each section,
4 thirty dollars.

5 13. Qualifying party LICENSE examination to broaden scope, fifty
6 dollars.

7 14. Qualifying party inactive LICENSE renewal, twenty-five dollars.

8 15. Certification LICENSE application and examination, thirty dollars.

9 16. Certification LICENSE examination to broaden scope, ten dollars.

10 17. Certification LICENSE annual renewal, twenty-five dollars.

11 ~~18. Apprentice employee registration, five dollars.~~

12 ~~19.~~ 18. Duplicate qualifying party LICENSE identification card, ten
13 dollars.

14 ~~20.~~ 19. Duplicate certified applicator LICENSE identification card,
15 ten dollars.

16 B. The commission may charge additional fees for services which the
17 commission deems appropriate to carry out its intent and purpose. These
18 additional fees shall not exceed the costs of rendering the services.

19 Sec. 16. Section 32-2319, Arizona Revised Statutes, is amended to
20 read:

21 32-2319. Continuing education

22 A. In order to satisfy continuing education requirements, a certified
23 applicator or qualifying party shall verify attendance at programs of
24 approved instruction which are designed to augment the proficiency of the
25 certified applicator or qualifying party relating to structural pest control
26 and which are approved by the commission.

27 ~~B. The commission shall appoint an advisory accreditation committee~~
28 ~~consisting of certified applicators, qualifying parties and public members.~~
29 ~~Subject to approval by the commission, the advisory accreditation committee~~
30 ~~shall establish and modify, as necessary, guidelines for evaluation of~~
31 ~~programs of instruction. On request for approval of a program of instruction~~
32 ~~the advisory accreditation committee COMMISSION STAFF shall evaluate the~~
33 ~~program of instruction AND MAKE AN ACCREDITATION RECOMMENDATION TO THE~~
34 ~~COMMISSION. The commission may adopt, modify or refuse to adopt any~~
35 ~~recommendation made by the advisory committee STAFF. The commission shall~~
36 ~~not limit credit for programs of instruction on the basis of whether they are~~
37 ~~conducted by a chemical company or provided in professional association~~
38 ~~seminars or in-house education programs of business licensees.~~

39 C. Commission staff may provide and conduct classes to train and
40 assist BUSINESS licensees and their employees in preparation for
41 certification LICENSE examinations. The commission may assess a fee for each
42 class. Classes may be provided by commercial enterprises or accredited
43 institutions.

44 D. Commission staff shall MAY provide and conduct eight hours of
45 continuing education classes at least quarterly, with the intent of providing

1 all credit hours necessary to ensure continuing education requirements in all
2 categories for all certified applicators and licensees. Classes may be
3 provided by commercial enterprises or accredited institutions under the
4 supervision of commission staff. The commission may charge a fee for each
5 credit hour.

6 E. If one individual holds both a certified applicator certificate
7 and a qualifying party qualification LICENSES, the completion of a minimum
8 of six hours of continuing education in the preceding SAME CALENDAR year for
9 the certified applicator certificate LICENSE satisfies the continuing
10 education requirements for both the certified applicator certificate and
11 qualifying party qualification LICENSES.

12 F. Continuing education requirements COURSES shall include instruction
13 in integrated pest management as provided in section 32-2320 32-2331.

14 Sec. 17. Section 32-2321, Arizona Revised Statutes, is amended to
15 read:

16 32-2321. Disciplinary action; grounds; procedure; judicial
17 review

18 A. After a hearing or pursuant to a consent order the commission may
19 take any of the following disciplinary actions, in combination or
20 alternatively:

- 21 1. Revoke a license, certificate, qualification or registration.
- 22 2. Suspend a license, certificate, qualification or registration.
- 23 3. Refuse to renew a license, certificate, qualification or
24 registration.

25 4. Impose probation requirements which require a business licensee,
26 certified applicator, qualifying party or registered employee to comply with
27 one or more specific provisions of this chapter or rules adopted pursuant to
28 this chapter and which require reporting by or monitoring of the business
29 licensee, certified applicator, qualifying party or registered employee.

30 5. Impose a civil penalty in an amount of not more than one thousand
31 dollars for each violation except for grounds prescribed in subsection B,
32 paragraphs 9 and 10 of this section.

33 6. Issue an administrative warning.

34 7. Require a qualifying party to report to the commission the
35 qualifying party's role in the management of a business license.

36 8. Issue a corrective work order requiring a business licensee,
37 certified applicator or qualifying party to take appropriate remedial action
38 to comply with this article and the rules adopted pursuant to this article.
39 Corrective work orders shall specify the type of action required and the time
40 period for compliance.

41 B. The following acts are grounds for disciplinary action:

42 1. Applying a pesticide in a manner contrary to standards adopted
43 pursuant to section 32-2304, subsection A, paragraph 22.

44 2. Violating this chapter, rules adopted pursuant to this chapter or
45 a written order of the commission issued at a meeting of the commission.

1 3. Making false or fraudulent records or reports.

2 4. Misrepresenting a material fact in obtaining a
3 license, ~~certification, qualification or registration.~~

4 5. Applying pesticides in a manner which is inconsistent with the
5 label requirements of the pesticide and which may cause undue harm to the
6 public.

7 6. Misuse of a pesticide by a registered employee if the misuse is due
8 to training which the registered employee received OR FAILED TO RECEIVE or
9 lack of supervision.

10 7. Authorizing, directing or abetting the publication, advertisement,
11 distribution or circulation of any false statement or material
12 misrepresentation concerning a business of structural pest control.

13 8. Conviction of a felony or misdemeanor arising from or in connection
14 with a license, ~~certificate, qualification or registration~~ issued pursuant
15 to this chapter after issuance of the license, certificate, qualification or
16 registration.

17 9. Conviction of a felony.

18 10. Having had a license, ~~certificate, qualification or registration,~~
19 OR THE EQUIVALENT, to apply pesticides or engage in the business of
20 structural pest control suspended or revoked in another jurisdiction for
21 cause and not reinstated.

22 11. Making a fraudulent statement or an intentional material
23 misrepresentation in connection with a wood treatment proposal or a wood
24 infestation report.

25 12. Repeated de minimis violations of this chapter or rules adopted
26 under this chapter.

27 13. Failure to provide the commission with a current certificate of
28 insurance or proof of financial responsibility.

29 14. Failure to establish a complete vertical barrier at the exterior
30 of foundation walls in stem wall construction or exterior of grade beams in
31 monolithic construction within one hundred eighty days of the original
32 pretreatment to the primary slab.

33 C. The commission may proceed against a business licensee pursuant to
34 subsection A, paragraphs 1 through 5 of this section only if, after a
35 hearing, it has been shown that any of the following applies:

36 1. The business licensee has committed a prior violation of the same
37 type including any violation by any employee of the business licensee.

38 2. The business licensee failed to follow a written order of the
39 commission directing it to correct a deficiency or problem within the time
40 specified.

41 3. The business licensee has knowingly assumed operations for a
42 business licensee whose license has been revoked and during the first three
43 years after revocation allows the former licensee to play an active role in
44 company policy, decisions, sales or supervision of employees.

45 4. The business licensee is convicted of a felony.

1 5. The business licensee is determined by the commission to have
2 participated in a pretreatment violation.

3 D. Nothing in subsection C, paragraph 3 of this section shall be
4 deemed to prohibit a business licensee from directly purchasing accounts from
5 a licensee whose license has been revoked if the purchase is made within such
6 time after the revocation as the commission by rule may establish.

7 E. Before taking any action pursuant to this section, the commission
8 shall serve written notice on the complainant and the business licensee,
9 certified applicator, qualifying party or registered employee before the date
10 of the hearing pursuant to title 41, chapter 6, article 10 either personally
11 or by certified mail at the last address known to the commission. The
12 written notice shall contain the nature of the charge or charges against the
13 business licensee, certified applicator, qualifying party or registered
14 employee and the time and place of the hearing before the commission on the
15 charges.

16 F. ~~The certificate, A license, qualification or registration~~ may be
17 suspended without a hearing if its holder fails within thirty days to:

18 1. Pay renewal fees.

19 2. Pay civil penalties.

20 3. Demonstrate the completion of required continuing education.

21 G. The holder of a ~~certificate, license, qualification or registration~~
22 suspended under subsection F of this section must apply to the commission for
23 reinstatement.

24 H. Licenses, qualifications, certificates or registrations suspended
25 under subsection F of this section are automatically revoked without a
26 hearing after one year of suspension. Business Licenses revoked under this
27 section are not subject to section 32-2304, subsection A, paragraph 26.

28 I. All complaints shall be in ~~writing on forms supplied~~ A FORM
29 ESTABLISHED by the commission IN ITS RULES.

30 J. After receipt of a written complaint of any nature against a
31 business licensee, certified applicator, qualifying party or registered
32 employee, the commission may appoint a member or employee of the commission
33 to conduct an informal settlement conference with the complaining party, the
34 individual against whom the complaint was filed and the business licensee.
35 If the complaint is subject to section 32-2322, a settlement conference shall
36 not be held until the twenty day period prescribed in section 32-2322,
37 subsection A has expired and the complaint has not been resolved or both
38 parties consent to an earlier date. The purpose of the informal settlement
39 conference is to reach agreement as to the disposition of all or a portion
40 of the complaint, including any agreement providing for repairing or
41 rectifying the conditions specified in the complaint. The settlement
42 conference shall be conducted informally and the rules of evidence do not
43 apply. The settlement conference shall not be recorded. If the complainant
44 is present, the individual against whom the complaint was filed and the
45 business licensee may ask questions of the complainant and may review any

1 materials or reports compiled by the commission with respect to the
2 complaint. If the matter is resolved by agreement of the commission's
3 representative, the complainant and the business licensee, the matter may be
4 dismissed or a consent order may be prepared as prescribed ESTABLISHED by the
5 commission in its rules. Unless the commission has previously delegated to
6 a member or employee the ability to enter into a final consent order on
7 behalf of the commission, the proposed consent order is subject to approval
8 of the commission.

9 K. A consent order may be prepared by the commission only after either
10 an informal settlement conference conducted pursuant to subsection J of this
11 section or a formal hearing by the commission conducted pursuant to title 41,
12 chapter 6, article 10. Consent orders shall only set forth the general
13 nature of the complaint, the specific action to be taken by the qualifying
14 party, certified applicator, registered employee or business licensee, the
15 penalty, if any, and the time for compliance, if any, for any corrective
16 action to be taken.

17 L. Except as provided in section 41-1092.08, subsection H, final
18 decisions of the commission are subject to judicial review pursuant to title
19 12, chapter 7, article 6. Nothing in this section shall be construed to
20 limit the right of a party in an action under this section to a trial by
21 jury.

22 M. The commission shall consider only those complaints filed with the
23 commission within three years of the date of the alleged act or omission.

24 N. The commission may issue an advisory notice stating de minimis
25 violations of statutes or rules that carry no penalty, unless the person
26 subject to this chapter wilfully and repeatedly violates the statute or rule.
27 For wilful and repeated violations, the commission may take disciplinary
28 action against the person for a violation.

29 ~~O. The commission shall delete complaints that are dismissed with no~~
30 ~~violation.~~ Records of complaints shall be kept for the following time
31 periods:

32 1. Complaints that are dismissed because they are found not to be
33 matters of the jurisdiction of the commission shall be deleted.

34 2. Complaints that are dismissed by the commission with prejudice with
35 no finding of any violations shall be deleted three years after the complaint
36 is made.

37 3. Complaints that are dismissed without prejudice after a settlement
38 conference shall be deleted after five years.

39 4. Records of complaints where the commission has found a violation
40 or where the commission has entered into a consent agreement shall be deleted
41 in accordance with rules adopted by the commission. In no event shall the
42 record be deleted earlier than ten years following the filing of the
43 complaint.

44 P. Only this chapter applies to, regulates and determines all
45 requirements regarding certification LICENSURE, licensure fees, testing and

1 education related to structural pest control in this state. Only this
2 chapter applies to, regulates and determines all requirements regarding the
3 business of structural pest control, including the application, notification
4 of use or disposal of pesticides for structural pest control in this state.

5 ~~Q. Under any circumstance where a school or school district requires~~
6 ~~a licensee to post notifications before or after the application of~~
7 ~~pesticides the requirement shall be limited to the initial posting of~~
8 ~~notices.~~

9 R. Q. For purposes of filing or submitting all documents or fees
10 required under this chapter, service is considered complete if postmarked on
11 the proper date and delivered by first class mail or a higher class.

12 Sec. 18. Section 32-2322, Arizona Revised Statutes, is amended to
13 read:

14 32-2322. Complaints of property damage; resolution procedure

15 A. The business licensee shall report actions taken to resolve a
16 complaint of property damage within twenty days after it receives notice of
17 the complaint from the commission.

18 B. If the commission finds that the complaint has been resolved
19 satisfactorily it may dismiss the complaint.

20 C. If the commission does not find that the complaint has been
21 resolved satisfactorily it may ~~investigate the complaint and take~~
22 ~~disciplinary action if it deems necessary.~~

23 Sec. 19. Section 32-2325, Arizona Revised Statutes, is amended to
24 read:

25 32-2325. Unlawful acts

26 A person shall not:

27 1. Engage in the business of structural pest control without holding
28 a business license issued pursuant to this chapter.

29 2. Engage in the business of structural pest control in any category
30 without a qualifying party qualified LICENSED in that category.

31 3. Operate a branch office without employing a certified applicator
32 or qualifying party under whose direct supervision pesticide applications are
33 made out of that office AND WITHOUT REGISTERING THE BRANCH OFFICE WITH THE
34 COMMISSION.

35 4. Apply pesticides in any category other than the control of
36 wood-destroying pests or organisms INSECTS unless the person is a certified
37 applicator certified in or qualifying party qualified LICENSED in that
38 category pursuant to this chapter or the person A REGISTERED EMPLOYEE WHO
39 applies the pesticides under the direct supervision of a certified applicator
40 certified in or qualifying party qualified LICENSED in that category pursuant
41 to this chapter.

42 5. Apply pesticides for the control of wood-destroying pests or
43 organisms INSECTS unless both of the following apply:

44 (a) The person is a certified applicator certified in or qualifying
45 party qualified LICENSED in that category pursuant to this chapter or the

1 ~~person applies the pesticides under the immediate supervision of a certified~~
2 ~~applicator certified in or qualifying party qualified in that category~~
3 ~~pursuant to this chapter.~~

4 (b) The person has received at least five hours of instruction from
5 the commission or an in-house education program of a business licensee on the
6 subject of control of wood-destroying pests or organisms INSECTS that is
7 appropriate for the specific type of application in which the person is
8 engaged PERFORMED. An examination on the instruction is not required. A
9 BUSINESS LICENSEE SHALL KEEP A RECORD OF COMPLETION OF THE TRAINING AND SHALL
10 MAKE IT AVAILABLE ON THE COMMISSION'S REQUEST.

11 6. Apply pesticides or use devices, or both, TO CONTROL PESTS, as an
12 employee of a business licensee to control pests without being registered
13 pursuant to section 32-2315.

14 ~~7. Complete a wood infestation report without being a certified~~
15 ~~applicator or qualifying party who is certified or qualified in the category~~
16 ~~of control of wood-destroying pests or organisms pursuant to this chapter.~~

17 ~~8. 7. Make recommendations regarding structural pest control unless~~
18 ~~the person is a certified applicator, a qualifying party or a~~
19 ~~registered employee.~~

20 Sec. 20. Section 32-2326, Arizona Revised Statutes, is amended to
21 read:

22 32-2326. Violation; classification

23 A person who violates any provision of ~~article 1, 2 or 3~~ of this
24 chapter is guilty of a class 3 misdemeanor, except as provided in section
25 32-2328.

26 Sec. 21. Section 32-2328, Arizona Revised Statutes, is amended to
27 read:

28 32-2328. Unlicensed structural pest control; cease and desist
29 orders; civil penalties; violation; classification

30 A. A priority of the commission is to identify persons who are engaged
31 in the business of structural pest control without a license from the
32 commission.

33 B. The commission may do either or both of the following in relation
34 to unlicensed structural pest control business operations:

35 1. Issue a cease and desist order requiring an unlicensed structural
36 pest control business, on receipt of the order, to immediately cease
37 operations.

38 2. Impose on an unlicensed structural pest control business a civil
39 penalty of ~~at least five hundred~~ UP TO ONE THOUSAND dollars for the first
40 offense and ~~at least seven hundred fifty~~ UP TO TWO THOUSAND dollars for the
41 second or a subsequent offense.

42 C. Engaging in the business of structural pest control without
43 obtaining and maintaining a current license pursuant to this chapter is a
44 class ~~6~~ 5 felony.

1 Sec. 22. Repeal

2 Title 32, chapter 22, article 4, Arizona Revised Statutes, is repealed.

3 Sec. 23. Title 32, chapter 22, Arizona Revised Statutes, is amended
4 by adding a new article 4, to read:

5 ARTICLE 4. INTEGRATED PEST MANAGEMENT,
6 TREATMENT AND REPORTS

7 Sec. 24. Transfer and renumber

8 Sections 32-2320, 32-2323 and 32-2324, Arizona Revised Statutes, are
9 transferred and renumbered for placement in title 32, chapter 22, article 4,
10 Arizona Revised Statutes, as added by this act, as sections 32-2331, 32-2332
11 and 32-2333, respectively.

12 Sec. 25. Section 32-2331, Arizona Revised Statutes, as transferred and
13 renumbered by this act, is amended to read:

14 32-2331. Integrated pest management; reporting requirement;
15 guidelines; definition

16 A. The commission shall prepare AND IMPLEMENT guidelines for an
17 integrated pest management program for structural pest control practices.

18 B. The guidelines shall consider INCLUDE AT LEAST the following
19 elements:

20 1. The identification of pests.

21 2. The establishment of a monitoring and record keeping system for
22 regular sampling and assessment of pest populations.

23 3. The determination of the pest population levels that can be
24 tolerated based on aesthetic, economic and health concerns and setting action
25 thresholds if pest populations or environmental conditions warrant remedial
26 action.

27 4. The prevention of pest problems through improved sanitation, the
28 management of waste, the addition of physical barriers and the modification
29 of habitats that attract or harbor pests.

30 5. The reliance on nontoxic, biological, cultural or mechanical pest
31 management methods or on the use of natural control agents.

32 6. The use of chemical pesticides, if necessary, with preference for
33 products that are the least harmful to human health and the environment.

34 C. The commission shall report annually on the progress of
35 implementing the guidelines to the governor, the president of the senate,
36 AND the speaker of the house of representatives and shall provide a copy of
37 the report to the secretary of state and the director of the Arizona state
38 library, archives and public records.

39 D. For the purposes of this section, "integrated pest management"
40 means a sustainable approach to managing pests by combining biological,
41 cultural, physical and chemical tools in a way that minimizes economic,
42 health and environmental risks.

1 Sec. 26. Section 32-2332, Arizona Revised Statutes, as transferred and
2 renumbered by this act, is amended to read:

3 32-2332. Wood-destroying pests or organisms; treatment proposal

4 A. A business licensee shall not commence work on a contract or sign,
5 issue or deliver any documents expressing an opinion or making a statement
6 relating to the presence or absence of wood-destroying pests or organisms
7 INSECTS in a structure until an inspection is made. A business licensee
8 shall prepare a treatment proposal on a form approved by the commission and
9 shall deliver a copy of the treatment proposal to the person requesting the
10 proposal, or the person's designated agent, before beginning treatment. A
11 licensee shall also give to the person requesting a proposal a written
12 recommendation that verifies a particular problem and in addition to the
13 licensee's recommendation for treatment shall advise the person of
14 alternative treatments and methods, including integrated pest management
15 METHODS as provided in section 32-2320 32-2331, to alleviate the problem. A
16 treatment proposal shall not be in the same form or be construed as a wood
17 infestation report. A treatment proposal which does not identify infestation
18 by a wood-destroying pest or organism INSECTS is not a binding statement as
19 to the presence or absence of wood-destroying pests or organisms INSECTS.

20 B. A treatment proposal shall be prepared by a qualifying party or a
21 certified applicator who has received at least five hours of instruction from
22 the commission or an in-house education program of a business licensee on the
23 subject of termite WOOD-DESTROYING INSECT inspections. An examination on the
24 instruction is not required. THE BUSINESS LICENSEE SHALL KEEP A RECORD OF
25 COMPLETION OF THE TRAINING AND SHALL MAKE THE RECORD AVAILABLE UPON THE
26 COMMISSION'S REQUEST.

27 C. If a business licensee performs a treatment pursuant to a treatment
28 proposal, the business licensee shall maintain a record of the treatment and
29 the type, ENVIRONMENTAL PROTECTION AGENCY REGISTRATION NUMBER and quantity
30 of the chemical used.

31 D. No business licensee may issue any guarantee for subterranean
32 termites relating to a spot treatment of a structure for sale or involved in
33 refinancing unless the licensee has first treated the entire structure. In
34 the case of a privately owned dwelling with walls common to another privately
35 owned dwelling, the licensee may issue the guarantee after treating the
36 single privately owned dwelling in its entirety except for adjoining walls
37 which are inaccessible due to refusal of adjoining occupants to allow access
38 to the technician. COMMERCIAL ESTABLISHMENTS, EXCEPT FOR MULTIFAMILY
39 DWELLINGS, ARE EXEMPT FROM THIS SUBSECTION.

40 Sec. 27. Section 32-2333, Arizona Revised Statutes, as transferred and
41 renumbered by this act, is amended to read:

42 32-2333. Wood infestation reports

43 A. The commission shall adopt a wood infestation report form for use
44 by business licensees. ~~Business licensees may submit other wood infestation~~
45 ~~report forms for approval by the commission.~~

1 B. Wood infestation reports may only be completed by a certified
2 applicator or qualifying party who is ~~certified or qualified~~ LICENSED in
3 the category of control of wood-destroying ~~pests or organisms~~ INSECTS and
4 who has received at least five hours of instruction from the commission or
5 an in-house education program of a business licensee on the subject of wood
6 infestation reports. An examination on the instruction is not required. THE
7 BUSINESS LICENSEE SHALL KEEP A RECORD OF COMPLETION OF THE TRAINING AND SHALL
8 MAKE THE RECORD AVAILABLE UPON THE COMMISSION'S REQUEST.

9 C. Wood infestation reports shall be on file in the office of the
10 certified applicator or qualifying party who completed the wood infestation
11 report within seven working days after the completion of an inspection. The
12 business licensee shall retain wood infestation reports for three years AND
13 MAKE THE REPORTS AVAILABLE UPON THE COMMISSION'S REQUEST.

14 D. Wood infestation reports are evidence of the existence or absence
15 of wood-destroying ~~pests or organisms~~ INSECTS which were visible and
16 accessible to an inspector on the date the inspection was made. A business
17 licensee remains responsible for the accuracy of the inspection and the
18 report as evidence of the presence or absence of infestation on the date of
19 inspection, except that a wood infestation report shall not be construed as
20 a guarantee as to the presence or absence of wood-destroying ~~pests or~~
21 ~~organisms~~ INSECTS in a structure after the date of inspection.

Passed the House April 2, 2002,

by the following vote: 41 Ayes,

12 Nays, 7 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 24, 2002,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

Charmine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2188

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 15, 2002,

by the following vote: 33 Ayes,

23 Nays, 4 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 16, 2002

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 20 day of May, 2002

at 1:50 o'clock P M.

[Signature]
Secretary to the Governor

Approved this _____ day of

_____, 20 _____,

at _____ o'clock _____ M.
VETO

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of June, 2002,

at 5:31 o'clock P M.

Secretary of State

H.B. 2188